(1)

Supreme Court, U.S.
FILED

021674 MAY 2 - 2003

OFFICE OF THE CLERK

No. 02-

IN THE

Supreme Court of the United States

OCTOBER TERM, 2002

MITCH MCCONNELL *et al.*,

Appellants,

v.

FEDERAL ELECTION COMMISSION *et al.*,

Appellees.

On Appeal From The United States District Court For The District of Columbia

JURISDICTIONAL STATEMENT

FLOYD ABRAMS
SUSAN BUCKLEY
BRIAN MARKLEY
CAHILL, GORDON & REINDEL LLP
80 Pine Street
New York, NY 10005
(212) 701-3000

KENNETH W. STARR
Counsel of Record
EDWARD W. WARREN
KANNON K. SHANMUGAM
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, DC 20005
(202) 879-5000

(*additional counsel on signature block*)

May 2, 2003

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D. C. 20001

95 pp

QUESTIONS PRESENTED

1. Whether the district court erred by upholding portions of the "soft money" provision (section 101) of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, because it constitutes an invalid exercise of Congress' power to regulate elections under Article I, Section 4, of the Constitution; violates the First Amendment or the equal protection component of the Fifth Amendment; or is unconstitutionally vague.

2. Whether the district court erred by upholding portions of the "electioneering communications" provisions (sections 201, 203, 204, and 311) of BCRA, because they violate the First Amendment or the equal protection component of the Fifth Amendment, or are unconstitutionally vague.

3. Whether the district court erred by holding nonjusticiable challenges to, and upholding, portions of the "advance notice" provisions of BCRA (sections 201 and 212), because they violate the First Amendment.

4. Whether the district court erred by holding nonjusticiable challenges to, and upholding, the "coordination" provisions of BCRA (sections 202, 211, and 214), because they violate the First Amendment.

5. Whether the district court erred by holding nonjusticiable challenges to, and upholding, the "attack ad" provision of BCRA (section 305), because it violates the First Amendment.

PARTIES TO THE PROCEEDINGS

The appellants here, who were plaintiffs in two of the eleven cases consolidated in the district court, are Senator Mitch McConnell; Southeastern Legal Foundation, Inc.; Representative Bob Barr; Center for Individual Freedom; National Right to Work Committee; 60 Plus Association, Inc.; U.S. d/b/a Pro English; the National Association of Broadcasters; and Thomas E. McInerney.

The appellees here, who were defendants or intervenor-defendants in the district court, are the Federal Election Commission; the Federal Communications Commission; the United States of America; Senator John McCain; Senator Russell Feingold; Representative Christopher Shays; Representative Martin Meehan; Senator Olympia Snowe; and Senator James Jeffords.

STATEMENT PURSUANT TO RULE 29.6

None of the appellants has a parent corporation, and no publicly held company owns 10% or more of the stock of any of the appellants.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDINGS ii

STATEMENT PURSUANT TO RULE 29.6 iii

TABLE OF AUTHORITIES vi

INTRODUCTION 1

OPINIONS BELOW 2

JURISDICTION 2

PERTINENT CONSTITUTIONAL AND STATUTORY PROVISIONS 2

STATEMENT OF THE CASE 2

THE QUESTIONS PRESENTED ARE SUBSTANTIAL 8

CONCLUSION 18

TABLE OF AUTHORITIES

Page

CASES

Buckley v. Valeo,
424 U.S. 1 (1976) ..... passim

California Democratic Party v. Jones,
530 U.S. 567 (2000) 11

Citizens Against Rent Control/Coalition for Fair Housing v. Berkeley,
454 U.S. 290 (1981) 9

Colorado Republican Fed. Campaign Comm. v. FEC,
518 U.S. 604 (1996) 10, 16

Davis v. Bandemer,
479 U.S. 109 (1986) 12

Eu v. San Francisco County Democratic Cent. Comm.,
489 U.S. 214 (1989) 9

Ex parte Siebold,
100 U.S. 371 (1879) 11

FEC v. Massachusetts Citizens for Life, Inc.,
479 U.S. 238 (1986) 13

FEC v. National Conservative Political Action Comm.,
470 U.S. 480 (1985). 10

New York Times Co. v. Sullivan,
376 U.S. 254 (1964) 17

Oregon v. Mitchell,
400 U.S. 112 (1970) 11

Perry v. Sindermann,
408 U.S. 593 (1972) 17

Police Dep't of Chicago v. Mosley,
408 U.S. 92 (1972). 12

Rosenberger v. Rector and Visitors of Univ. of Va.,
515 U.S. 819 (1995) 17

Schaumberg v. Citizens for a Better Env't,
444 U.S. 620 (1990) 9

Watchtower Bible & Tract Society of N.Y., Inc. v. Village of Stratton,
536 U.S. 150 (2002) 15

STATUTES

Bipartisan Campaign Reform Act of 2002,
Pub. L. No. 107-155, 116 Stat. 81 ..... 2, 3, 8

Federal Election Campaign Act,
Pub. L. No. 92-225, 86 Stat. 3 (1972) 2

Federal Election Campaign Act,
Pub. L. No. 93-443, 88 Stat. 1263 (1974) 2

Federal Election Campaign Act,
Pub. L. No. 94-238, 90 Stat. 475 (1976) 3

OTHER AUTHORITIES

The Federalist No. 59 (Hamilton) (C. Rossiter ed. 1961) .. 11

INTRODUCTION

This case needs no introduction. It is the constitutional challenge to the "McCain-Feingold" law — known officially, if somewhat misleadingly, as the Bipartisan Campaign Reform Act (BCRA). The statute represents the most comprehensive campaign finance legislation since the Federal Election Campaign Act (FECA), and this case represents the most significant constitutional challenge to such legislation since *Buckley v. Valeo*, 424 U.S. 1 (1976).

At its core, this is a case about the First Amendment. BCRA constitutes a frontal assault on First Amendment values, the likes of which have not been seen since the Republic's infancy. But BCRA also offends other constitutional principles — principles that are no less fundamental. It purports to regulate the activities of political parties and candidates not just with respect to federal elections, but also with respect to state elections, notwithstanding Congress' lack of power so to regulate. It subjects a variety of players in the political process, and a variety of types of political speech, to disparate treatment, despite the absence of any justification for doing so. And it contains an abundance of vague provisions, thereby transforming the Federal Election Commission, the regulatory body tasked with enforcing those provisions, into a board of censors that decides which types of political speech are permitted and which are not. Rarely has Congress acted with such utter disregard for so many constitutional limitations on its power.

Appellants urge this Court to note probable jurisdiction on the questions presented herein, and to reverse the district court on those questions.[1]

---

[1] Other plaintiffs will likely be filing jurisdictional statements of their own, and it is anticipated that defendants will also do so. Where necessary, appellants will file prompt responses to those statements. In addition, appellants shortly intend to file a motion proposing procedures for the

OPINIONS BELOW

The district court's opinions are not yet reported. *See* Appendix ("App.") 3a. Appellants' notice of appeal is reprinted at App. 1a-2a.

JURISDICTION

The district court entered judgment on May 2, 2003. Appellants filed their timely notice of appeal on May 2, 2003. This Court has appellate jurisdiction pursuant to section 403(a)(3) of BCRA.

PERTINENT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, is reprinted at App. 7a-68a.

Article I, Section 4, of the United States Constitution is reprinted at App. 4a.

The First Amendment of the United States Constitution is reprinted at App. 5a.

The Fifth Amendment of the United States Constitution is reprinted at App. 6a.

STATEMENT OF THE CASE

1. The history of campaign finance regulation in the United States is relatively brief. In fact, Congress did not attempt systematically to regulate the financing of campaigns until 1971, when it enacted the Federal Election Campaign Act (FECA). *See* Pub. L. No. 92-225, 86 Stat. 3 (1972) (codified as amended at 2 U.S.C. §§ 431-455). As amended in 1974, *see* Pub. L. No. 93-443, 88 Stat. 1263, FECA had three principal components. First, and most fundamentally, FECA established limits on the amount of money that could be contributed for the purpose of influencing federal elections — money that would come to be known as "hard money." Individuals could

---

disposition of this appeal.

contribute up to $1,000 per candidate, and "political committees" (including political action committees, or PACs) could contribute up to $5,000.[2] Second, FECA also imposed limits on the amount of money that could be spent in federal elections, restricting expenditures by any person "relative to a clearly identified candidate" to $1,000. Finally, FECA established limits on "coordinated expenditures": that is, expenditures made on behalf of, and in collaboration with, a federal candidate for express advocacy and related activities. FECA treated coordinated expenditures as "contributions" subject to the applicable limits, and set separate limits for coordinated expenditures by political party committees.

2. In *Buckley*, this Court considered challenges to these and numerous other provisions of FECA. The Court began by recognizing that both contributions and expenditures on behalf of political candidates implicate the First Amendment rights of free speech and free association, although it asserted that limitations on expenditures constituted "significantly more severe" restrictions on those rights than limitations on contributions. *See* 424 U.S. at 19-23. The Court also recognized that the government had a compelling interest in "the prevention of corruption and the appearance of corruption." *See id.* at 25. Although the Court did not define "corruption," it repeatedly referred to "quid pro quo" arrangements in which contributions or expenditures were made

---

[2] In 1976, Congress amended FECA to add further limits. *See* Pub. L. No. 94-238, 90 Stat. 475. Under those amendments, individuals could contribute up to $5,000 per year to any particular political committee (including PACs and state political party committees), and up to $20,000 per year to any national party committee. Political party committees, in turn, could contribute up to $5,000 to a candidate's campaign, with national party committees allowed to contribute up to $17,500 to a senatorial candidate's campaign.

The BCRA raises a number of these contribution limits. *See* BCRA §§ 102, 307. Appellants are not directly challenging any of the contribution limits in this appeal.

in order to secure or "influence" a particular action. *See id.* at 26, 27, 45.

The Court upheld FECA's contribution limits as constitutional. *See id.* at 24-38. However, it struck down FECA's limits on independent expenditures. *See id.* at 39-59. In order to address both vagueness and overbreadth concerns, the Court first narrowly construed the expenditure limits to cover only those funds that were spent for what has come to be known as "express advocacy": that is, funds used "in express terms [to] advocate the election or defeat of a clearly identified candidate." *Id.* at 44. This narrowing construction therefore excluded from the reach of government regulation political advocacy that does *not* expressly advocate the election or defeat of a clearly identified candidate (so-called "issue advocacy"). Even after narrowing these provisions, however, the Court struck them down on the ground that independent expenditures did not pose a sufficient threat of corruption or the appearance of corruption. *See id.* at 45. In so doing, the Court expressed approval of FECA's treatment of coordinated expenditures as contributions. *See id.* at 47. The Court applied a similar narrowing construction to a provision of FECA requiring disclosure of certain expenditures, but ultimately upheld that provision. *See id.* at 74-82.

3. In the wake of *Buckley*, the FECA regime for the financing of federal election campaigns peacefully coexisted with the States' regimes for the financing of their own election campaigns. Some States allowed virtually unlimited contributions to, and expenditures by, state candidates and party committees; others imposed even more stringent limits than those imposed by FECA on the federal level.

Questions arose, however, regarding the financing of activities that had effects on *both* federal and state elections, such as voter registration, voter identification, and get-out-the-vote activities. In 1978, the Federal Election Commission (FEC) declared that state and local party committees could use a

combination of federally regulated funds (so-called "hard money") and state-regulated funds (so-called "soft money") to fund those activities. *See* FEC Advisory Op. 1978-10. The FEC subsequently allowed national party committees to use a similar "allocation" of federally regulated and state-regulated funds. *See* FEC Advisory Op. 1979-17. Over the next two decades, the FEC extended the allocation regime to cover other activities by party committees, including administrative expenses, party-promoting (or "generic") campaign activities, and, perhaps most critically, issue advocacy. *See* FEC Advisory Op. 1995-25. During the 1990s, the raising and spending of state-regulated funds for party activities, and the use of issue advocacy by political parties and other groups, expanded significantly.

4. It was against this backdrop that BCRA was enacted. The relevant provisions of BCRA are contained in four titles.

a. Title I of BCRA effectively outlaws the use of so-called "soft money": that is, money which has not previously been subject to federal regulation, but which has been raised by political parties in full compliance with applicable state law.

Section 101 of BCRA bans national party committees from receiving or spending state-regulated funds for any purpose — whether for activities affecting *both* federal and state elections, for which an allocation of state-regulated funds could previously be used, or for activities that affect *only* state elections. Section 101 also bans national party committees from soliciting state-regulated funds for, or transferring state-regulated funds to, any other entity, including state and local party committees.

In addition, section 101 bans state and local party committees from spending state-regulated funds for what BCRA euphemistically calls "federal election activity" — a broadly defined phrase that encompasses voter registration, voter identification, get-out-the-vote activity, and generic campaign

activity whenever there is a federal election on the ballot, and advertising that contains certain types of references to federal candidates. Because most States hold their state and local elections simultaneously with federal elections, the practical effect of this provision is to ban state and local party committees from using state-regulated funds for covered activities even if those activities solely or primarily affect state and local elections. Although section 101 creates a narrow subcategory of these activities that can be paid for with a new category of federally regulated funds (so-called "Levin" funds), it requires state and local party committees to raise funds for these activities on their own, without engaging in joint fundraising or receiving transfers of funds from other party committees.

Section 101 also severely restricts federal officeholders and candidates from raising state-regulated funds for state and local party committees and candidates. Moreover, it bans state and local candidates from spending state-regulated funds on advertising that contains certain types of references to federal candidates.

b. Title II of BCRA contains a number of challenged provisions. Most notably, sections 201 and 204 ban all corporations and unions, or other entities using funds donated by corporations and unions, from making disbursements for "electioneering communications," which section 203 defines as any advertising, carried by a broadcast, satellite, or cable medium within 30 days of a primary or 60 days of a general election, which "refers to a clearly identified candidate for Federal office." In the event that this definition is held to be unconstitutional, section 203 also contains a "fallback" definition of "electioneering communications," which covers any broadcast advertising, at any time, which "promotes," "supports," "attacks," or "opposes" a federal candidate and "is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate." In addition to banning

corporations and unions from making "electioneering communications" altogether, section 201 requires all persons who spend $10,000 on "electioneering communications" to make disclosures to the FEC regarding those disbursements.

Several other provisions of Title II are also under challenge. Sections 201 and 212 impose disclosure requirements on persons who merely enter into a contract to make disbursements for electioneering communications or other expenditures, even before those outlays are actually made. Section 202 treats coordinated disbursements for electioneering communications, like coordinated expenditures, as contributions to the "supported" candidates, and sections 211 and 214 broadly define the concept of "coordination" and order the FEC to promulgate new regulations concerning that definition. Finally, section 213 bans political parties from making both independent and coordinated expenditures on behalf of any given candidate, and instead forces them to choose which type of expenditures to make.

c. Title III of BCRA is composed of "miscellaneous" provisions, several of which are at issue in this litigation. Section 318 bans minors from contributing federally regulated money in any amount to a federal candidate, and from contributing either federally regulated or state-regulated money to a political party committee. Section 305 requires a federal candidate who wishes to take advantage of the lowest available rate for a broadcast advertisement either to certify that he or she will not refer to another candidate in his or her advertising, or to include a specified identification or visual statement in the ad. Sections 304, 316, and 319 raise the generally applicable limitations on contributions and coordinated expenditures for candidates who face opponents using specified amounts of personal funds in their campaigns. And section 311 establishes detailed identification requirements for the sponsors of advertising that qualifies as express advocacy or "electioneering communications."

d. Title V of BCRA contains one provision under challenge, section 504, which requires broadcasters to collect and disclose records of requests to purchase broadcast time for communications "relating to any political matter of national importance," even if those communications are never actually made.

5. Although noting that BCRA raised "serious constitutional concerns," President Bush signed BCRA into law on March 27, 2002. Eleven complaints were immediately filed in the United States District Court for the District of Columbia, challenging the constitutionality of various aspects of the law. Pursuant to the judicial-review provisions in section 403 of the BCRA, those cases were consolidated before a single three-judge panel (Henderson, Circuit Judge, and Kollar-Kotelly and Leon, District Judges). The court ordered the parties to conduct expedited discovery and a "paper trial," in which witnesses filed written statements and were cross-examined outside court. On November 6, 2002, BCRA took effect. After a voluminous record was compiled and expedited briefing completed, the court heard oral arguments on December 4 and 5, 2002.

On May 2, 2003, the district court issued opinions upholding some provisions of BCRA, striking down other provisions, and holding that appellants' challenges to other provisions were nonjusticiable. *See* App. 3a. This appeal follows.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

In BCRA, Congress vested this Court with direct appellate jurisdiction over the district court's resolution of challenges to BCRA's constitutionality, and asked this Court "to expedite to the greatest possible extent the disposition of the * * * appeal." *See* BCRA § 403(a)(3). The district court's decision to reject some of appellants' constitutional challenges was erroneous, and this Court should note probable jurisdiction on those issues.

1. The district court largely struck down the "soft money" provision of BCRA (section 101), but upheld restrictions on the

use of soft money by party committees for certain types of advertising, and also upheld restrictions on the solicitation and use of soft money by officeholders and candidates. To the extent the district court held section 101 constitutional, that decision was erroneous and should be reversed.

a. Most significantly, section 101 violates the First Amendment. Section 101 imposes burdens on speech and associational rights that far outweigh those imposed by the contribution and expenditure limits at issue in *Buckley*. By limiting the mere *solicitation* of state-regulated funds by various actors, including officeholders and candidates (provisions upheld by the district court), section 101 directly restricts the speech of those actors. *See, e.g., Schaumberg v. Citizens for a Better Env't*, 444 U.S. 620, 632 (1980). Section 101 also interferes with the ability of party committees to associate with other committees of the same party, officeholders and candidates, and other organizations. *See, e.g., Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 230-31 (1989). Because of the substantial speech and associational interests implicated, and because the limits on donations of state-regulated funds to national party committees effectively serve as limits on the amounts that national party committees can spend, section 101 of BCRA should be subject to strict scrutiny. *See Citizens Against Rent Control/Coalition for Fair Housing v. Berkeley*, 454 U.S. 290, 299 (1981).

Section 101 cannot survive strict scrutiny because it is not narrowly tailored to meet a compelling governmental interest. Although appellees will suggest that section 101 was justified to prevent donors of state-regulated funds from securing "access" to federal officeholders and candidates or to prevent circumvention of current campaign finance regulations, this Court has not recognized either of those potentially limitless justifications for regulation as compelling. Instead, the only interest that this Court has recognized as compelling in the campaign finance context is the interest in reducing actual or

apparent corruption. *See FEC v. National Conservative Political Action Comm.*, 470 U.S. 480, 496-97 (1985).

As a threshold matter, it is questionable whether restrictions on the donation of state-regulated funds to, or the spending of any state-regulated funds by, a political party serve that interest at all. As this Court has noted, there are no "special dangers of corruption associated with political parties." *Colorado Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 616 (1996) (*Colorado I*) (plurality opinion).[3] Moreover, where funds are being used for activities that do not exclusively serve to get a candidate elected (such as generic party activity), rather than for activities that exclusively do so (such as express advocacy), "the opportunity for corruption * * * is, at best, attenuated." *Id.*

Even assuming that section 101 does serve the government's interest in reducing actual or apparent corruption, however, it is not narrowly tailored to serve that goal. To the extent that Congress was concerned that the *amount* of donations of state-regulated funds gave rise to corruption, it could simply have capped the amount that could be given. And to the extent that Congress was worried about the *use* of state-regulated funds for certain types of advertising, it could perhaps have banned only the disbursement of state-regulated funds for that purpose, as the district court suggests — though, as we will shortly demonstrate, such advertising is in fact constitutionally protected speech.

b. Section 101 is constitutionally problematic for three other reasons. *First*, appellants intend to argue that Congress lacked the power to enact section 101, which restricts the activities of political party committees, officeholders, and candidates not only with respect to federal elections, but also

[3] *See also id.* at 629 (Kennedy, J., concurring in part and dissenting in part) (same); *id.* at 646 (Thomas, J., concurring in part and dissenting in part) (same).

with respect to state and local elections. The Elections Clause in Article I, Section 4, of the Constitution — the traditionally cited source of authority to regulate campaign financing, *see Buckley*, 424 U.S. at 13 — gives Congress the power to regulate only the "Times, Places, and Manner" of holding *federal* elections. Both the contemporary understanding and subsequent case law demonstrate beyond doubt that the Elections Clause does not give Congress the power to regulate state elections as well. *See, e.g.*, The Federalist No. 59, at 363 (Hamilton) (C. Rossiter ed. 1961); *Oregon v. Mitchell*, 400 U.S. 112, 124-25 (1970) (opinion of Black, J.); *Ex parte Siebold*, 100 U.S. 371, 393 (1879); *cf. California Democratic Party v. Jones*, 530 U.S. 567, 590 (2000) (Stevens, J., dissenting) (noting that "[a] State's power to determine how its officials are to be elected is a quintessential attribute of sovereignty").

Section 101 of BCRA constitutes an improper exercise of Congress' Elections Clause power because it fails sufficiently to accommodate the competing state interest in regulating activities that affect state elections. Section 101 prohibits party committees from raising and spending state-regulated funds for many activities that have effects on *both* federal and state elections (including the use of state-regulated funds for advertising that refers to both federal and state candidates, the regulation of which the district court upheld), and other activities that have effects *only* on state elections. Similarly, in provisions upheld by the district court, section 101 dramatically limits the ability of federal officeholders and candidates to raise money for state and local candidates, and imposes unprecedented restrictions on the speech of state and local candidates themselves.

Second, section 101 violates basic principles of equal protection to the extent that it regulates speech by political parties but not identical speech by similarly situated entities. The requirement that the government act neutrally among speakers is embedded not only in the equal protection

component of the Fifth Amendment, but also in the First Amendment itself. *See Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 96 (1972). At least as originally written, section 101 unquestionably disadvantages political party committees compared to interest groups: whereas national party committees are banned outright from raising or spending state-regulated funds for contributions to state or local candidates, voter registration, voter identification, get-out-the-vote activity, generic campaign activity, advocacy relating to ballot measures, and even administrative expenses, interest groups will be able to continue to raise and spend non-federally regulated funds for all of these purposes. The predictable result is that interest groups will tend to supplant political party committees with regard to all of these activities, thereby diluting the central role that political parties traditionally have played in our democratic process. *See Davis v. Bandemer*, 478 U.S. 109, 145 (1986) (O'Connor, J., concurring).

Third, a number of terms in section 101 are unconstitutionally vague, including several terms in the definition of "federal election activity" (such as covered "communications" that "promote," "support," "attack," or "oppose" a federal candidate). Crucially, the FEC's rulemaking on section 101 has failed to cure the vagueness of many of these terms, and in some cases has introduced additional vagueness in the regulatory regime. This vagueness will force party committees and other actors either to "steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked," *Buckley*, 424 U.S. at 41 n.48 (internal quotation omitted), or to seek prior approval from the FEC before engaging in political speech.

2. The district court partially upheld and partially struck down the "electioneering communications" provisions of BCRA.

As to those provisions, appellants intend to argue that the regulation of disbursements for political speech other than

express advocacy violates the First Amendment, as this Court previously held in both *Buckley* and *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (*MCFL*). In *Buckley*, the Court considered a provision of FECA restricting expenditures by any person "relative to a clearly identified candidate" to $1,000, and an attendant provision requiring disclosures of certain expenditures made "for the purpose of * * * influencing" federal elections. In both instances, the Court narrowed the statutory provisions to reach only expenditures made for "communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office": that is, "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" *Buckley*, 424 U.S. at 44 & n.52, 80. The Court made clear that it was narrowing these provisions not merely to cure vagueness in the statutory language, but also to eliminate constitutional overbreadth. *See, e.g., id.* at 80. Notably, the Court drew the constitutional line at express advocacy while recognizing that the distinction between express advocacy and other advocacy "may often dissolve in practical application" because "[c]andidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions." *Id.* at 42. In *MCFL*, the Court similarly narrowed a provision that banned corporate expenditures "in connection with" federal elections to cover only expenditures for express advocacy, this time doing so solely on the basis of overbreadth. *See* 479 U.S. at 248-49.

Because both of section 203's definitions of "electioneering communications" — including the fallback definition, as modified and then upheld by the district court — extend far beyond constitutionally regulable express advocacy, the ban on disbursements for "electioneering communications" by corporations and unions in sections 201 and 204, and the

attendant disclosure requirements in sections 201 and 311, should be struck down.

Appellees will likely argue that this Court should overrule *Buckley* and *MCFL* on the theory that many ads run in proximity to elections are "sham" issue ads, which are "intended" to influence elections, and therefore should be treated as the constitutional equivalent of express advocacy. As the Court recognized in *Buckley*, it is true that any discussion of issues and candidates "tend[s] naturally and inexorably to exert some influence on voting at elections." 424 U.S. at 42 n.50 (internal quotation omitted). As *Buckley* itself makes clear, however, the distinction between express advocacy and other advocacy was intended precisely to avoid efforts such as appellees' to divine the real "purpose" behind an ad. In any event, the evidentiary record before the district court demonstrates that BCRA reaches a substantial amount of fully protected political speech, even under appellees' redefinition of express advocacy.

Finally, appellants intend to make further arguments regarding the constitutionality of BCRA's "electioneering communications" provisions. Appellants intend to argue that the "fallback" definition of "electioneering communications" in section 203, as modified and then upheld by the district court, is impermissibly vague because reasonable people can differ as to whether any given advertisement "promotes," "supports," "attacks," or "opposes" a federal candidate. Finally, appellants intend to argue that section 203 violates basic principles of equal protection because it regulates speech carried by broadcast media but not by other media, and because it exempts communications by media corporations themselves.

3. The district court struck down some of the "advance notice" provisions of BCRA (sections 201 and 212) and held that challenges to other of those provisions were nonjusticiable. Appellants intend to argue that all of their challenges are justiciable and that all of the "advance notice" provisions

violate the First Amendment. Those provisions impose disclosure requirements on persons who merely enter into a contract to make disbursements for electioneering communications or other expenditures, even before those disbursements or expenditures are actually made, and even if they are ultimately not made. Sections 201 and 212 therefore differ in kind from the FECA reporting provisions upheld in *Buckley*, which required only after-the-fact disclosure. *See Buckley*, 424 U.S. at 74-82.

By requiring disclosure of a mere intention to make disbursements or expenditures, regardless of whether they are actually made, sections 201 and 212 cannot be said to serve any governmental interest in preventing corruption or the appearance of corruption, informing the electorate as to the source of campaign spending, or assisting in enforcement of contribution limits — much less to be narrowly tailored to those interests. These provisions will chill the exercise of free speech by forcing would-be speakers to disclose their plans in advance, thereby potentially subjecting them to harassment and giving their opponents the opportunity either to dissuade media organizations from running the ads at issue or to counter those ads with ones of their own. Such a restraint plainly violates the First Amendment. *Cf. Watchtower Bible & Tract Society of N.Y., Inc. v. Village of Stratton*, 536 U.S. 150, 165 (2002) (striking down ordinance requiring permits for canvassers).

4. The district court upheld some of the "coordination" provisions of BCRA (section 211 and 214) and held that challenges to other of those provisions were nonjusticiable. Appellants intend to argue that all of their challenges are justiciable and that all of the "coordination" provisions violate the First Amendment. Sections 211 and 214 give the concept of "coordination" a new, broader definition, with section 214(c) expressly stating that "agreement or formal collaboration" are not required in order to establish coordination, and ordering the FEC to promulgate new regulations consistent with this

directive. This Court's prior cases on coordinated expenditures, however, make clear that some degree of actual agreement is necessary before an expenditure can be treated as coordinated and therefore as the legal equivalent of a contribution. *See, e.g., Colorado I*, 518 U.S. at 619 (plurality opinion); *Buckley*, 424 U.S. at 47 & n.53. Any definition of coordination that lacks some requirement of actual agreement is therefore unconstitutional.

Moreover, section 202 treats coordinated disbursements for electioneering communications, like coordinated expenditures for express advocacy, as contributions to the "supported" candidates. If this Court strikes down the "electioneering communications" provisions of BCRA, thereby reaffirming that Congress may not regulate advocacy that does not constitute express advocacy, it should also strike down the "coordination" provisions of BCRA insofar as they reach disbursements for speech that does not qualify as express advocacy.

5. The district court next held that challenges to the "attack ad" provision of BCRA (section 305) are nonjusticiable. Appellants intend to argue that their challenges are justiciable and that section 305 violates the First Amendment. Section 305 requires a federal candidate who wishes to take advantage of the statutorily mandated lowest available rate for a broadcast advertisement either to certify that he or she will not refer to another candidate in his or her advertising, or to include a specified identification or visual statement in the ad. There is no question that this provision was designed to discourage, if not eradicate, so-called "negative advertising": the very title of the provision is "Limitation on Availability of Lowest Unit Charge for Federal Candidates Attacking Opposition."

Section 305 violates the First Amendment because it imposes an unconstitutional condition (namely, the requirement that a candidate either engage in "positive" advertising or include certain speech in his or her "negative" advertising) on the availability of a governmental benefit (namely, the "lowest

unit" rate). *See, e.g., Perry v. Sindermann*, 408 U.S. 593, 597 (1972). Indeed, to the extent that section 305 favors "positive" over "negative" advertising, it constitutes an impermissible viewpoint-based regulation of speech. *See, e.g., Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). It is beyond question that "negative," like "positive," political speech enjoys the fullest constitutional protection. *See, e.g., New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

CONCLUSION

For the foregoing reasons, the Court should note probable jurisdiction.

Respectfully submitted,

FLOYD ABRAMS
SUSAN BUCKLEY
BRIAN MARKLEY
CAHILL GORDON & REINDEL LLP
80 Pine Street
New York, NY 10005
(212) 701-3000

Attorneys for Senator Mitch McConnell and National Association of Broadcasters

KATHLEEN M. SULLIVAN
559 Nathan Abbott Way
Stanford, CA 94305
(650) 725-9875

Attorney for Senator Mitch McConnell

G. HUNTER BATES
1215 Cliffwood Drive
Goshen, KY 40026
(502) 473-7557

Attorney for Senator Mitch McConnell and Thomas E. McInerney

KENNETH W. STARR
Counsel of Record
EDWARD W. WARREN
KANNON K. SHANMUGAM
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, DC 20005
(202) 879-5000

Attorneys for Senator Mitch McConnell; Southeastern Legal Foundation, Inc.; Representative Bob Barr; Center for Individual Freedom; National Right to Work Committee; 60 Plus Association, Inc.; and U.S. d/b/a Pro English

JAN WITOLD BARAN
THOMAS W. KIRBY
LEE E. GOODMAN
WILEY, REIN & FIELDING LLP
1776 K Street, N.W.
Washington, DC 20006
(202) 719-7000

Attorneys for Senator Mitch McConnell

APPENDIX

APPENDIX
TABLE OF CONTENTS

APPENDIX A	Notice of Appeal to the Supreme Court of the United States, May 2, 2003	1a
APPENDIX B	Opinion of the District Court, May 2, 2003	3a
APPENDIX C	U.S. Const. art. I, § 4	4a
APPENDIX D	U.S. Const. amend. I	5a
APPENDIX E	U.S. Const. amend. V	6a
APPENDIX F	Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 166 Stat. 81	7a

APPENDIX A

NOTICE OF APPEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, et al., Plaintiffs, v. FEDERAL ELECTION COMMISSION, et al., Defendants.	Civ. No. 02-0582 (CKK, KLH, RKL) (and related cases)

NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES

Notice is hereby given that the following plaintiffs hereby appeal to the Supreme Court of the United States from any and all adverse rulings incorporated in, antecedent to, or ancillary to the final judgment of the three-judge district court entered in this action on May 2, 2003: Senator Mitch McConnell; Southeastern Legal Foundation, Inc.; Representative Bob Barr; Center for Individual Freedom; National Right to Work Committee; 60 Plus Association, Inc.; U.S. d/b/a Pro English; and Thomas E. McInerney (in No. 02-582, *McConnell v. FEC*); and the National Association of Broadcasters (in No. 02-753, *National Ass'n of Broadcasters v. FEC*).

This appeal is taken pursuant to section 403(a)(3) of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, 114.

Respectfully submitted,

_____/s/_____

Floyd Abrams
Susan Buckley
Brian Markley
Cahill Gordon &
Reindel LLP
80 Pine Street
New York, NY 10005
(212) 701-3000

Attorneys for Senator Mitch McConnell and National Association of Broadcasters

Kenneth W. Starr
Edward W. Warren
Kannon K. Shanmugam
Kirkland & Ellis
655 Fifteenth Street, N.W.
Washington, DC 20005
(202) 879-5000

Attorneys for Senator Mitch McConnell; Southeastern Legal Foundation, Inc.; Representative Bob Barr; Center for Individual Freedom; National Right to Work Committee; 60 Plus Association, Inc.; and U.S. d/b/a Pro English

(*additional counsel omitted*)

May 2, 2003

APPENDIX B

OPINION OF THE DISTRICT COURT

The district court's opinions can be found on the Internet at http://lsmns2o.gtwy.uscourts.gov/dcd/mcconnell-2002-ruling.html.

APPENDIX C

UNITED STATES CONSTITUTION
ARTICLE I, SECTION 4

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such meeting shall be on the first Monday in December, unless they shall by Law appoint a different day.

APPENDIX D

UNITED STATES CONSTITUTION
AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

APPENDIX E

UNITED STATES CONSTITUTION
AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX F

BIPARTISAN CAMPAIGN REFORM ACT OF 2002
PUB. L. NO. 107-155, 166 STAT. 81

[March 27, 2002]

An Act To amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. — This Act may be cited as the "Bipartisan Campaign Reform Act of 2002".

(b) TABLE OF CONTENTS. — The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I — REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.

Sec. 102. Increased contribution limit for State committees of political parties.

Sec. 103. Reporting requirements.

TITLE II — NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A — Electioneering Communications

Sec. 201. Disclosure of electioneering communications.

Sec. 202. Coordinated communications as contributions.

Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications.

Sec. 204. Rules relating to certain targeted electioneering communications.

Subtitle B — Independent and Coordinated Expenditures

Sec. 211. Definition of independent expenditure.

Sec. 212. Reporting requirements for certain independent expenditures.

Sec. 213. Independent versus coordinated expenditures by party.

Sec. 214. Coordination with candidates or political parties.

TITLE III — MISCELLANEOUS

Sec. 301. Use of contributed amounts for certain purposes.

Sec. 302. Prohibition of fundraising on Federal property.

Sec. 303. Strengthening foreign money ban.

Sec. 304. Modification of individual contribution limits in response to expenditures from personal funds.

Sec. 305. Limitation on availability of lowest unit charge for Federal candidates attacking opposition.

Sec. 306. Software for filing reports and prompt disclosure of contributions.

Sec. 307. Modification of contribution limits.

Sec. 308. Donations to Presidential inaugural committee.

Sec. 309. Prohibition on fraudulent solicitation of funds.

Sec. 310. Study and report on clean money clean elections laws.

Sec. 311. Clarity standards for identification of sponsors of election-related advertising.

Sec. 312. Increase in penalties.

Sec. 313. Statute of limitations.

Sec. 314. Sentencing guidelines.

Sec. 315. Increase in penalties imposed for violations of conduit contribution ban.

Sec. 316. Restriction on increased contribution limits by taking into account candidate's available funds.

Sec. 317. Clarification of right of nationals of the United States to make political contributions.

Sec. 318. Prohibition of contributions by minors.

Sec. 319. Modification of individual contribution limits for House candidates in response to expenditures from personal funds.

TITLE IV — SEVERABILITY; EFFECTIVE DATE

Sec. 401. Severability.

Sec. 402. Effective dates and regulations.

Sec. 403. Judicial review.

TITLE V — ADDITIONAL DISCLOSURE PROVISIONS

Sec. 501. Internet access to records.

Sec. 502. Maintenance of website of election reports.

Sec. 503. Additional disclosure reports.

Sec. 504. Public access to broadcasting records.

TITLE I — REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL. — Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES. —

"(1) IN GENERAL. — A national committee of a political party (including a national congressional campaign committee

of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY. — The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES. —

"(1) IN GENERAL. — Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY. —

"(A) IN GENERAL. — Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts —

"(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act (other than amounts described in subparagraph (B)(iii)); and

"(ii) other amounts which are not subject to the limitations, prohibitions, and reporting requirements of this Act (other than any requirements of this subsection).

"(B) CONDITIONS. — Subparagraph (A) shall only apply if —

"(i) the activity does not refer to a clearly identified candidate for Federal office;

"(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

"(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

"(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from —

"(I) any other State, local, or district committee of any State party,

"(II) the national committee of a political party (including a national congressional campaign committee of a political party),

"(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

"(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

"(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY. — Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts —

"(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

"(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

"(c) FUNDRAISING COSTS. — An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS. — A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to —

"(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such

section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

"(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

"(e) FEDERAL CANDIDATES. —

"(1) IN GENERAL. — A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not —

"(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds —

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

"(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

"(2) STATE LAW. — Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for

State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

"(3) FUNDRAISING EVENTS. — Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

"(4) PERMITTING CERTAIN SOLICITATIONS. —

"(A) GENERAL SOLICITATIONS. — Notwithstanding any other provision of this subsection, an individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 301(20)(A)) where such solicitation does not specify how the funds will or should be spent.

"(B) CERTAIN SPECIFIC SOLICITATIONS. — In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 301(20)(A), or for an entity whose principal purpose is to conduct such activities, if —

"(i) the solicitation is made only to individuals; and

"(ii) the amount solicited from any individual during any calendar year does not exceed $20,000.

"(f) STATE CANDIDATES. —

"(1) IN GENERAL. — A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCEPTION FOR CERTAIN COMMUNICATIONS. — Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both."

(b) DEFINITIONS. — Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) FEDERAL ELECTION ACTIVITY. —

"(A) IN GENERAL. — The term 'Federal election activity' means —

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

"(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office

(regardless of whether the communication expressly advocates a vote for or against a candidate); or

"(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

"(B) EXCLUDED ACTIVITY. — The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for —

"(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention; and

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

"(21) GENERIC CAMPAIGN ACTIVITY. — The term 'generic campaign activity' means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

"(22) PUBLIC COMMUNICATION. — The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

"(23) MASS MAILING. — The term 'mass mailing' means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

"(24) TELEPHONE BANK. — The term 'telephone bank' means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period."

SEC. 102. INCREASED CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended —

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C) —

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000."

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(e) POLITICAL COMMITTEES. —

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES. — The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES. —

"(A) IN GENERAL. — In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

"(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY. — Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

"(3) ITEMIZATION. — If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS. — Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B)."

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION. —

(1) IN GENERAL. — Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended —

(A) by striking clause (viii); and

(B) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

(2) NONPREEMPTION OF STATE LAW. — Section 403 of such Act (2 U.S.C. 453) is amended —

(A) by striking "The provisions of this Act" and inserting:

"(a) IN GENERAL. — Subject to subsection (b), the provisions of this Act"; and

(B) by adding at the end the following:

"(b) STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES. — Notwithstanding any other provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee."

TITLE II — NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A — Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 103, is amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS. —

"(1) STATEMENT REQUIRED. — Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a

statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT. — Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

"(B) The principal place of business of the person making the disbursement, if not an individual.

"(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

"(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(3) ELECTIONEERING COMMUNICATION. — For purposes of this subsection —

"(A) IN GENERAL. — (i) The term 'electioneering communication' means any broadcast, cable, or satellite communication which —

"(I) refers to a clearly identified candidate for Federal office;

"(II) is made within —

"(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

"(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

"(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term 'electioneering communication' means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to

affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

"(B) EXCEPTIONS. — The term 'electioneering communication' does not include —

"(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

"(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

"(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

"(C) TARGETING TO RELEVANT ELECTORATE. — For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is 'targeted to the relevant electorate' if the communication can be received by 50,000 or more persons —

"(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

"(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

"(4) DISCLOSURE DATE. — For purposes of this subsection, the term 'disclosure date' means —

"(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

"(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(5) CONTRACTS TO DISBURSE. — For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(6) COORDINATION WITH OTHER REQUIREMENTS. — Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

"(7) COORDINATION WITH INTERNAL REVENUE CODE. — Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986."

(b) RESPONSIBILITIES OF FEDERAL COMMUNICATIONS COMMISSION. — The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission's website.

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended —

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) if —

"(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

"(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and".

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL. — Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before ", but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION. — Section 316 of such Act is amended by adding at the end the following:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS. —

"(1) APPLICABLE ELECTIONEERING COMMUNICATION. — For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

"(2) EXCEPTION. — Notwithstanding paragraph (1), the term 'applicable electioneering communication' does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the preceding sentence, the term 'provided directly by individuals' does not include funds the source of which is an entity described in subsection (a) of this section.

"(3) SPECIAL OPERATING RULES. —

"(A) DEFINITION UNDER PARAGRAPH (1). — An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

"(B) EXCEPTION UNDER PARAGRAPH (2). — A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 304(f)(2)(E).

"(4) DEFINITIONS AND RULES. — For purposes of this subsection —

"(A) the term 'section 501(c)(4) organization' means —

"(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

"(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(5) COORDINATION WITH INTERNAL REVENUE CODE. — Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code."

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

"(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS. —

"(A) EXCEPTION DOES NOT APPLY. — Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

"(B) TARGETED COMMUNICATION. — For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in

the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(C) DEFINITION. — For purposes of this paragraph, a communication is 'targeted to the relevant electorate' if it meets the requirements described in section 304(f)(3)(C)."

Subtitle B — Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE. — The term 'independent expenditure' means an expenditure by a person —

"(A) expressly advocating the election or defeat of a clearly identified candidate; and

"(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents."

SEC. 212. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended —

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(g) TIME FOR REPORTING CERTAIN EXPENDITURES. —

"(1) EXPENDITURES AGGREGATING $1,000. —

"(A) INITIAL REPORT. — A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

"(B) ADDITIONAL REPORTS. — After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000. —

"(A) INITIAL REPORT. — A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

"(B) ADDITIONAL REPORTS. — After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS. — A report under this subsection —

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose."

(b) TIME OF FILING OF CERTAIN STATEMENTS. —

(1) IN GENERAL. — Section 304(g) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(4) TIME OF FILING FOR EXPENDITURES AGGREGATING $1,000. — Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient."

(2) CONFORMING AMENDMENTS. — (A) Section 304(a)(5) of such Act (2 U.S.C. 434(a)(5)) is amended by striking "the second sentence of subsection (c)(2)" and inserting "subsection (g)(1)".

(B) Section 304(d)(1) of such Act (2 U.S.C. 434(d)(1)) is amended by inserting "or (g)" after "subsection (c)".

SEC. 213. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended —

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY. —

"(A) IN GENERAL. — On or after the date on which a political party nominates a candidate, no committee of the political party may make —

"(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

"(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under

this subsection with respect to the candidate during the election cycle.

"(B) APPLICATION. — For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(C) TRANSFERS. — A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate."

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL. — Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended —

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following new clause:

"(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and".

(b) REPEAL OF CURRENT REGULATIONS. — The regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and

party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION. — The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address —

(1) payments for the republication of campaign materials;

(2) payments for the use of a common vendor;

(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316. — Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III — MISCELLANEOUS

SEC. 301. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES. — A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual —

"(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers, without limitation, to a national, State, or local committee of a political party.

"(b) PROHIBITED USE. —

"(1) IN GENERAL. — A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION. — For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including —

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility."

SEC. 302. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended —

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION. —

"(1) IN GENERAL. — It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY. — A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both.'; and

(2) in subsection (b), by inserting "or Executive Office of the President" after "Congress".

SEC. 303. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended —

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION. — It shall be unlawful for —

"(1) a foreign national, directly or indirectly, to make —

"(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

"(B) a contribution or donation to a committee of a political party; or

"(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

"(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national."

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS FOR INDIVIDUALS. — Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended —

(1) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(2) by adding at the end the following:

"(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS. —

"(1) INCREASE. —

"(A) IN GENERAL. — Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the 'applicable limit') with respect to that candidate shall be the increased limit.

"(B) THRESHOLD AMOUNT. —

"(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA. — In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of —

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) VOTING AGE POPULATION. — In this subparagraph, the term 'voting age population' means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

"(C) INCREASED LIMIT. — Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over —

"(i) 2 times the threshold amount, but not over 4 times that amount —

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount —

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount —

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

"(D) OPPOSITION PERSONAL FUNDS AMOUNT. — The opposition personal funds amount is an amount equal to the excess (if any) of —

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. —

"(A) IN GENERAL. — Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) —

"(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. — A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(3) DISPOSAL OF EXCESS CONTRIBUTIONS. —

"(A) IN GENERAL. — The aggregate amount of contributions accepted by a candidate or a candidate's

authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. — A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS. — Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election."

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. — Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended —

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

"(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS. —

"(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. — In this subparagraph, the term 'expenditure from personal funds' means —

"(I) an expenditure made by a candidate using personal funds; and

"(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(ii) DECLARATION OF INTENT. — Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with —

"(I) the Commission; and

"(II) each candidate in the same election.

"(iii) INITIAL NOTIFICATION. — Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with —

"(I) the Commission; and

"(II) each candidate in the same election.

"(iv) ADDITIONAL NOTIFICATION. — After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with —

"(I) the Commission; and

"(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

"(v) CONTENTS. — A notification under clause (iii) or (iv) shall include —

"(I) the name of the candidate and the office sought by the candidate;

"(II) the date and amount of each expenditure; and

"(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. — In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(*i*)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(D) ENFORCEMENT. — For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309."

(c) DEFINITIONS. — Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 101(b), is further amended by adding at the end the following:

"(25) ELECTION CYCLE. — For purposes of sections 315(*i*) and 315A and paragraph (26), the term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

"(26) PERSONAL FUNDS. — The term 'personal funds' means an amount that is derived from —

"(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had —

"(i) legal and rightful title; or

"(ii) an equitable interest;

"(B) income received during the current election cycle of the candidate, including —

"(i) a salary and other earned income from bona fide employment;

"(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

"(iii) bequests to the candidate;

"(iv) income from trusts established before the beginning of the election cycle;

"(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

"(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

"(vii) proceeds from lotteries and similar legal games of chance; and

"(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of 1/2 of the property."

SEC. 305. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL. — Section 315(b) of the Communications Act of 1934 (47 U.S. C. 315(b)) is amended —

(1) by striking "(b) The charges" and inserting the following:

"(b) CHARGES. —

"(1) IN GENERAL. — The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

"(2) CONTENT OF BROADCASTS. —

"(A) IN GENERAL. — In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

"(B) LIMITATION ON CHARGES. — If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

"(C) TELEVISION BROADCASTS. — A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds —

"(i) a clearly identifiable photographic or similar image of the candidate; and

"(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

"(D) RADIO BROADCASTS. — A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

"(E) CERTIFICATION. — Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

"(F) DEFINITIONS. — For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)."

(b) CONFORMING AMENDMENT. — Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting "subject to paragraph (2)," before "during the forty-five days".

(c) EFFECTIVE DATE. — The amendments made by this section shall apply to broadcasts made after the effective date of this Act.

SEC. 306. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

"(12) SOFTWARE FOR FILING OF REPORTS. —

"(A) IN GENERAL. — The Commission shall —

"(i) promulgate standards to be used by vendors to develop software that —

"(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

"(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

"(III) allows the Commission to post the information on the Internet immediately upon receipt; and

"(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

"(B) ADDITIONAL INFORMATION. — To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

"(C) REQUIRED USE. — Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

"(D) REQUIRED POSTING. — The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph."

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS. — Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended —

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

(2) in subparagraph (B), by striking "$20,000" and inserting "$25,000".

(b) INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS. — Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than —

"(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

"(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties."

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT. — Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$35,000".

(d) INDEXING OF CONTRIBUTION LIMITS. — Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended —

(1) in paragraph (1) —

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002 —

"(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(ii) each amount so increased shall remain in effect for the calendar year; and

"(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means —

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001".

(e) EFFECTIVE DATE. — The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003.

SEC. 308. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL. — Chapter 5 of title 36, United States Code, is amended by —

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

"§ 510. Disclosure of and prohibition on certain donations

"(a) IN GENERAL. — A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

"(b) DISCLOSURE. —

"(1) IN GENERAL. — Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

"(2) CONTENTS OF REPORT. — A report filed under paragraph (1) shall contain —

"(A) the amount of the donation;

"(B) the date the donation is received; and

"(C) the name and address of the person making the donation.

"(c) LIMITATION. — The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))."

(b) REPORTS MADE AVAILABLE BY FEC. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103, 201, and 212 is amended by adding at the end the following:

"(h) REPORTS FROM INAUGURAL COMMITTEES. — The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission."

SEC. 309. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended —

(1) by inserting "(a) IN GENERAL. —" before "No person"; and

(2) by adding at the end the following:

"(b) FRAUDULENT SOLICITATION OF FUNDS. — No person shall —

"(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

"(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1)."

SEC. 310. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED. — In this section, the term "clean money clean elections" means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY. —

(1) IN GENERAL. — The Comptroller General shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED. —

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES. — The Comptroller General shall determine —

(i) the number of candidates who have chosen to run for public office with clean money clean elections including —

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS. — The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT. — Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

SEC. 311. CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended —

(1) in subsection (a) —

(A) in the matter preceding paragraph (1) —

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement";

(iii) by striking "direct"; and

(iv) by inserting "or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))" after "public political advertising"; and

(B) in paragraph (3), by inserting "and permanent street address, telephone number, or World Wide Web address" after "name"; and

(2) by adding at the end the following:

"(c) SPECIFICATION. — Any printed communication described in subsection (a) shall —

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d) ADDITIONAL REQUIREMENTS. —

"(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS. —

"(A) BY RADIO. — Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) BY TELEVISION. — Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through television shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and

states that the candidate has approved the communication. Such statement —

"(i) shall be conveyed by —

"(I) an unobscured, full-screen view of the candidate making the statement, or

"(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

"(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

"(2) COMMUNICATIONS BY OTHERS. — Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: '_____ is responsible for the content of this advertising.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds."

SEC. 312. INCREASE IN PENALTIES.

(a) IN GENERAL. — Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

"(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure —

"(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

"(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both."

(b) EFFECTIVE DATE. — The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL. — Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking "3" and inserting "5".

(b) EFFECTIVE DATE. — The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 314. SENTENCING GUIDELINES.

(a) IN GENERAL. — The United States Sentencing Commission shall —

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS. — The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves —

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES. —

(1) EFFECTIVE DATE. — Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of —

(A) 90 days after the effective date of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES. — The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 315. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUIT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS. — Section 309(a) of the Federal Election Campaign Act of 1971 (2 U. S.C. 437g(a)) is amended —

(1) in paragraph (5)(B), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)"; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)".

(b) INCREASE IN CRIMINAL PENALTY. — Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

"(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be —

"(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

"(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of —

"(I) $50,000; or

"(II) 1,000 percent of the amount involved in the violation; or

"(iii) both imprisoned under clause (i) and fined under clause (ii)."

(c) EFFECTIVE DATE. — The amendments made by this section shall apply with respect to violations occurring on or after the effective date of this Act.

SEC. 316. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY TAKING INTO ACCOUNT CANDIDATE'S AVAILABLE FUNDS.

Section 315(i)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)(1)), as added by this Act, is amended by adding at the end the following:

"(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. —

"(i) IN GENERAL. — For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. — For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of —

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the

election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held."

SEC. 317. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

SEC. 318. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"PROHIBITION OF CONTRIBUTIONS BY MINORS

"SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party."

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS. — Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is

amended by inserting after section 315 the following new section:

"MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO

PERSONAL FUND EXPENDITURES OF OPPONENTS

"SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT. —

"(1) IN GENERAL. — Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds $350,000 —

"(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

"(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(C) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

"(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT. —

"(A) IN GENERAL. — The opposition personal funds amount is an amount equal to the excess (if any) of —

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(B) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. —

"(i) IN GENERAL. — For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. — For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of —

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

"(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. —

"(A) IN GENERAL. — Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) —

"(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits

under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. — A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(4) DISPOSAL OF EXCESS CONTRIBUTIONS. —

"(A) IN GENERAL. — The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. — A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. —

"(1) IN GENERAL. —

"(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. — In this paragraph, the term 'expenditure from personal funds' means —

"(i) an expenditure made by a candidate using personal funds; and

"(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(B) DECLARATION OF INTENT. — Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed $350,000.

"(C) INITIAL NOTIFICATION. — Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of $350,000 in connection with any election, the candidate shall file a notification.

"(D) ADDITIONAL NOTIFICATION. — After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds $10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

"(E) CONTENTS. — A notification under subparagraph (C) or (D) shall include —

"(i) the name of the candidate and the office sought by the candidate;

"(ii) the date and amount of each expenditure; and

"(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(F) PLACE OF FILING. — Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with —

"(i) the Commission; and

"(ii) each candidate in the same election and the national party of each such candidate.

"(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. — In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(3) ENFORCEMENT. — For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309."

(b) CONFORMING AMENDMENT. — Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking "subsection (i)," and inserting "subsection (i) and section 315A,".

TITLE IV — SEVERABILITY; EFFECTIVE DATE

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. EFFECTIVE DATES AND REGULATIONS.

(a) GENERAL EFFECTIVE DATE. —

(1) IN GENERAL. — Except as provided in the succeeding provisions of this section, the effective date of this Act, and the amendments made by this Act, is November 6, 2002.

(2) MODIFICATION OF CONTRIBUTION LIMITS. — The amendments made by —

(A) section 102 shall apply with respect to contributions made on or after January 1, 2003; and

(B) section 307 shall take effect as provided in subsection (e) of such section.

(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW. — Title IV shall take effect on the date of enactment of this Act.

(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS. — Section 323(b) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), section 103(a), title II, sections 304 (including section 315(j) of Federal Election Campaign Act of 1971, as added by section 304(a)(2)), 305 (notwithstanding subsection (c) of such section), 311, 316, 318, and 319, and title V (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES. —

(1) IN GENERAL. — Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 (as added by section 101(a)) shall take effect on November 6, 2002.

(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES. —

(A) IN GENERAL. — Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has

received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

(B) USE OF EXCESS SOFT MONEY FUNDS. —

(i) IN GENERAL. — Subject to clauses (ii) and (iii), the national committee of a political party may use the amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of —

(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS. — A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9))) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

(iii) PROHIBITION OF BUILDING FUND USES. — A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

(c) REGULATIONS. —

(1) IN GENERAL. — Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act and the amendments made by this Act that are under the Commission's jurisdiction not later than 270 days after the date of enactment of this Act.

(2) SOFT MONEY OF POLITICAL PARTIES. — Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act and the amendments made by such title.

SEC. 403. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS. — If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS. — In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate

shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS. — Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY. —

(1) INITIAL CLAIMS. — With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

(2) SUBSEQUENT ACTIONS. — With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.

TITLE V — ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

"(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a

designation, statement, report, or notification filed electronically) after receipt by the Commission."

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL. — The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT. — In this section, the term "election-related report" means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES. — Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

SEC. 503. ADDITIONAL DISCLOSURE REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES. — Section 304(a)(2)(B) of the Federal Election Campaign Act of 1971 is amended by striking "the following reports" and all that follows through the period and inserting "the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year."

(b) NATIONAL COMMITTEE OF A POLITICAL PARTY. — Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence: "Notwithstanding the preceding sentence, a national committee

of a political party shall file the reports required under subparagraph (B)."

SEC. 504. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

"(e) POLITICAL RECORD. —

"(1) IN GENERAL. — A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that —

"(A) is made by or on behalf of a legally qualified candidate for public office; or

"(B) communicates a message relating to any political matter of national importance, including —

"(i) a legally qualified candidate;

"(ii) any election to Federal office; or

"(iii) a national legislative issue of public importance.

"(2) CONTENTS OF RECORD. — A record maintained under paragraph (1) shall contain information regarding —

"(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

"(B) the rate charged for the broadcast time;

"(C) the date and time on which the communication is aired;

"(D) the class of time that is purchased;

"(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

"(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

"(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

"(3) TIME TO MAINTAIN FILE. — The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years."